

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JUSTON WALTRIP, et al.,

Plaintiffs,

v.

No. 2:21-cv-643 SMV/KRS

PILOT TRAVEL CENTERS, LLC, et al.,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE MOTION FOR CONFERENCE**

THIS MATTER is before the Court on Plaintiffs' Motion for Pre-Motion Conference, (Doc. 25), filed November 3, 2021. Plaintiffs state they served discovery requests on Defendants, many of which relate to arbitrability issues, and Defendants' responses to those requests are due November 10, 2021. Plaintiffs state that their response to Defendants' Motion to Compel Arbitration, (Doc. 24), is due November 8, 2021, which is before they will have Defendants' discovery responses. Plaintiffs further state that Defendants' counsel may seek to stay discovery in this case pending resolution of the Motion to Compel Arbitration. (Doc. 25) at 2. Plaintiffs ask the Court to hold a telephonic conference "to address scheduling issues raised by these issues and to avoid unnecessary briefing." *Id.* Defendants have not agreed to the conference, so this Motion is opposed.

The Court encourages parties to work together to resolve scheduling and discovery disputes and is amenable to working with parties if such disputes can be resolved informally. Here, however, Defendants have not agreed to a telephonic conference and Plaintiffs filed their motion for a conference merely two business days before their response to Defendants' Motion to Compel Arbitration is due. If Plaintiffs require Defendants' responses to their discovery

requests in order to respond to the Motion to Compel Arbitration, then they may file a motion for an extension of time to file their response. Other than that urgent issue, it is not clear to the Court what relief Plaintiffs seek, especially since Defendants have not sought a stay of discovery and have not agreed that a conference would be helpful. The Court cannot provide rulings or advisory guidance for issues that are not properly before the Court.

IT IS THEREFORE ORDERED that Plaintiffs' Motion for Pre-Motion Conference, (Doc. 25), is DENIED without prejudice. If the parties agree that a telephonic conference will be helpful to resolve scheduling or discovery issues, they may file an unopposed motion setting forth the issues they wish the Court to resolve.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kevin Sweazea", is positioned above a horizontal line.

KEVIN R. SWEAZEA

UNITED STATES MAGISTRATE JUDGE